

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**KALYNN SNAIR,  
*Individually and as  
Administrator of the Estate  
of Michael J. Fletcher,***

:

**Plaintiffs,**

**v.**

**Case No. 2:22-cv-4154  
Judge Sarah D. Morrison  
Magistrate Judge Chelsey M.  
Vascura**

**JEFFERSON COUNTY,  
OHIO, *et al.*,**

:

**Defendants.**

**ORDER**

This matter is before the Court on Plaintiff's objections to the October 30, 2023 Report and Recommendation (ECF No. 32; Objections, ECF No. 34.)

The Magistrate Judge's Report and Recommendation was put on following a string of Show Cause Orders regarding Plaintiff's failure to issue services of process on Defendant Shawn McGhee and her continued failure to identify "Unknown Medical Staff 1–5" and effectuate service on the same. (See March 24, 2023 Show Cause Order, ECF No. 17; August 17, 2023 Show Cause Order, ECF No. 27; October 24, 2023 Show Cause Order, ECF No. 30.) After receiving two extensions to identify Unknown Defendants and serve process on all Defendants, Plaintiff was required to do so by October 20, 2023. (See April 10, 2023 Extension and August 21, 2023 Extension, ECF No. 29.)

Her failure to meet the twice extended deadline prompted the most recent Show Cause Order. In her response to that Order, Plaintiff explained that she was unaware of the deficiencies in her prior attempt to serve Defendant McGhee and requested a third extension to effectuate service on him. (Response, ECF No. 31.) As for the Unknown Defendants, Plaintiff explained that she has yet to receive Defendants' discovery responses, which she believes will identify the Unknown Defendants. (*Id.*) Finding these explanations wanting, the Magistrate Judge recommended that the claims against Defendant McGhee and the Unknown Defendants be dismissed without prejudice pursuant to Rule 4(m) for failure to timely effect service of process. (Report and Recommendation, ECF No. 32.)

Approximately a week after the Report and Recommendation was docketed, an Alias Summons and the Complaint were sent by certified mail to Defendant McGhee. (Certificate Mailing, ECF No. 33.) Plaintiff then filed objections to the Report and Recommendation, informing the Court of her most recent service attempt and explaining that "due to excusable neglect" she was unaware of the deficiency in her prior attempt at service. (Objections, ECF No. 34.) As for the Unknown Defendants, she explained that she continues to wait on the discovery responses necessary to identify those individuals and that she will attempt service as soon as she receives Defendants' responses. (*Id.*)

Rule 4(m) of the Federal Rules of Civil Procedure states:

If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows

good cause for the failure, the court must extend the time for service for an appropriate period.

In light of Plaintiff's explanation for her failure to serve Mr. McGhee, her request for a 60-day extension (albeit an untimely one), and her renewed attempt at service, the Court finds that she has shown good cause for why her claims against Defendant McGhee should not be dismissed. By contrast, Plaintiff attempts to explain why (nearly a year after she commenced this action) she has failed to identify and serve the Unknown Defendants, but she has still failed to move for an extension to do so. As such, the Court agrees with the Magistrate Judge that Plaintiff has failed to show cause for why her claims against the Unknown Defendants should not be dismissed pursuant to Rule 4(m).

Accordingly, the Report and Recommendation is **ADOPTED** and **AFFIRMED** in part. For the stated reasons, Plaintiff's claims against "Unknown Medical Staff 1–5" are **DISMISSED WITHOUT PREJUDICE** pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

In addition, Plaintiff's October 25, 2023 request for a 60-day extension to effect service of process on Defendant Shawn McGhee is **GRANTED**. Plaintiff has until January 24, 2024 to serve process on Defendant McGhee. **NO FURTHER EXTENSIONS WILL BE GRANTED.**

**IT IS SO ORDERED.**

/s/ Sarah D. Morrison  
**SARAH D. MORRISON**  
**UNITED STATES DISTRICT JUDGE**